



DEPARTMENT OF ENVIRONMENTAL QUALITY

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For Immediate Release

Sept. 7, 2007

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Judge dismisses LEAN, Sierra Club lawsuit against DEQ

BATON ROUGE – US District Judge Sarah Vance dismissed a lawsuit against DEQ Secretary Mike McDaniel on Thursday, saying the plaintiffs “failed to establish standing.”

The lawsuit was filed by the Louisiana Environmental Action Network and the Sierra Club alleging that the emergency orders McDaniel issued after hurricanes Katrina and Rita allowed waste to be disposed of in a way that would endanger public health and the environment. The plaintiffs alleged that the orders were pre-empted by the Resource Conservation and Recovery Act, the Clean Water Act and the Clean Air Act. DEQ contends the emergency orders were issued to ensure that public health and the environment were protected while expediting cleanup activities.

The Court found that LEAN and the Sierra Club did not have standing because they could not prove injury or that there was any harmful waste going into the landfills mentioned in the emergency orders, which have been updated numerous times since first issued on Aug. 30.

Vance wrote that, “The Court’s review of the affidavits reveal that the plaintiffs have not demonstrated that they have suffered concrete and particularized injuries from the application of the hurricane orders to any of the remaining six landfills still within the purview of the orders. The affiants do not demonstrate personal knowledge of harmful conditions at any of the landfills. As explained, *infra*, in the absence of any evidence about the conditions at the landfills that are allegedly violating federal environmental statutes, the plaintiffs cannot establish any injury resulting from the application of the emergency orders to these facilities. In fact, at oral argument, plaintiffs’ counsel informed the Court that plaintiffs did not know what the landfills were doing. It is particularly telling of plaintiffs’ lack on concrete injury that the hurricane orders had been in effect for more than a year before plaintiffs submitted their affidavits, and they were still unable to allege from personal knowledge that pollution had caused them harm.”

McDaniel said he was pleased with the ruling and with the hard work by the DEQ staff.

“We believe this ruling demonstrates the court could see that the emergency orders were protective of human health and the environment,” McDaniel said. “The DEQ staff took the necessary steps to make sure hazardous wastes, white goods and other materials were handled properly and that all disposal sites throughout the areas impacted by both hurricanes met environmental requirements.”